

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GMAC MORTGAGE CORPORATION, ) Case No.: C 11-01288 PSG  
Plaintiff, )  
v. )  
R. SCOTT SCHEIMAN, et al., )  
Defendants. )  
\_\_\_\_\_  
ORDER DENYING APPLICATION FOR  
SERVICE UPON DEFENDANT R.  
SCOTT SCHEIMAN BY PUBLICATION  
OF SUMMONS  
**(Re: Docket No. 3)**

On April 6, 2011, Plaintiff GMAC Mortgage Corporation (“GMAC”) applied to this court for an order directing service of the summons on Defendant R. Scott Scheiman (“Scheiman”) by publication in the Santa Clara Weekly.

“A summons may be served by publication if upon affidavit it appears to the satisfaction of the court in which the action is pending that the party to be served cannot with reasonable diligence be served in any other manner specified in [Article 3 of the California Code of Civil Procedure, Part 2, Title 5, Chapter 4] . . . .”<sup>1</sup> Under Article 3, one manner for serving a summons is service by mail.<sup>2</sup>

---

<sup>1</sup> Cal. Civ. Proc. Code § 415.50.

<sup>2</sup> See Cal. Civ. Proc. Code § 415.30.

1       Although the Declaration of Charles A. Correia in Support of the Application for Service<sup>3</sup>  
2 describes attempts at personal service and substituted service, the declaration does not state that  
3 GMAC has attempted service by mail. Thus, GMAC has not demonstrated to the court's satisfaction  
4 that Scheiman cannot with reasonable diligence be served in any other manner specified in Article 3  
5 besides publication. Accordingly,

6           IT IS HEREBY ORDERED that GMAC's application is DENIED.

7 Dated: April 11, 2011

8   
9 PAUL S. GREWAL  
United States Magistrate Judge

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

<sup>3</sup> See 4/6/11 Correai Decl. (Docket No. 3-1).